



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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November 14, 2011

Dr. Gregory J. Thorpe, Ph.D., Manager
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

SUBJECT: Federal Draft Environmental Impact Statement for the US 70, Havelock Bypass, Craven County, North Carolina; NHF-70(49); CEQ No.: 20110329; TIP Project No.: R-1015

Dear Dr. Thorpe:

The U.S. Environmental Protection Agency (EPA) Region 4 has reviewed the subject document and is commenting in accordance with Section 309 of the Clean Air Act (CAA) and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The Federal Highway Administration (FHWA) and the North Carolina Department of Transportation (NCDOT) are proposing to construct a 10-mile new location, multi-lane, median divided, bypass facility of US 70 Highway around the City of Havelock, Craven County, North Carolina.


EPA has been involved in the proposed project under the NEPA/Section 404 Merger process since 2001. EPA's last written correspondence on this project was on November 4, 1998, on the NCDOT's Environmental Assessment (Appendix A1). On January 18, 2001, EPA concurred on avoidance and minimization measures under a Concurrence Point 4. On August 21, 2008, EPA requested additional information to be addressed in the DEIS at a Merger Process Team Informational Meeting. EPA's technical review comments on the DEIS are attached to this letter (See Attachment A).

EPA has rated the DEIS as 'Environmental Concerns' (EC-2) indicating that the review has identified potential environmental impacts from all three detailed study alternatives that should be avoided. The review has disclosed the opportunity for possible avoidance and minimization measures and mitigation measures that might require potential changes to the proposed action. The rating of '2' indicates that DEIS information and environmental analysis is not sufficient and that additional information is required. EPA has substantial environmental concerns with respect to wetland and

stream impacts and appropriate avoidance and minimization measures and compensatory mitigation. In addition, EPA also has environmental concerns for prime farmland impacts, impacts to threatened and endangered species, wildlife habitat fragmentation, impacts to Croatan National Forest and solid waste issues. EPA recommends that all of the technical comments in the attachment be addressed in a Final EIS (FEIS). Furthermore, all relevant environment impacts that have not been disclosed in this document or covered in the FEIS should be addressed in additional NEPA documentation prior to the issuance of a Record of Decision (ROD).

EPA recommends that the transportation agencies consider the most stringent Best Management Practices (BMPs) and other enhanced environmental stewardship measures to mitigate for the proposed project's substantial natural resources impacts. The transportation agencies should also consider other reasonable measures to reduce the long-term socio-economic impacts from the proposed bypass facility. Mr. Christopher Militscher of my staff will continue to work with you as part of the NEPA/Section 404 Merger Team process. Should you have any questions concerning these comments, please feel free to contact him at Militscher.chris@epa.gov or (919) 856-4206 or (404) 562-9512.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Mueller', with a stylized flourish at the end.

Heinz J. Mueller
Chief, NEPA Program Office

Cc: J. Sullivan, FHWA
S. McClendon, USACE
P. Benjamin, USFWS
B. Wrenn, NCDWQ

ATTACHMENT A
Draft Environmental Impact Statement
US 70 Havelock Bypass, Craven County, N.C.
TIP Project No.: R-1015
Detailed Technical Comments

Purpose and Need for the Proposed Project

The proposed southwest bypass project of US 70 was identified in 1979 on a City-approved Thoroughfare Plan. Other notable milestones shown in Table 1.1 include a September 28, 1992, Notice of Intent to prepare an EIS, a January 27, 1998, issuance of an Environmental Assessment, and a FHWA determination that a DEIS is the appropriate NEPA document on December 8, 2003.

EPA was not a member of the early Project Steering Committee that began in 1993. The DEIS identifies two potential problems involved with the existing facility, including a poor level of service (LOS) currently (2008) and an unacceptable projected LOS in the design year (2035), an increase in traffic demand that diminishes the ability of US 70 to function as a Strategic Highway Corridor (SHC). EPA notes that on September 2, 2004, the NCDOT Board of Transportation adopted the SHC Plan that depicts the new location US 70 Havelock Bypass.

The 2008 traffic and LOS is shown in Table 1.3. The four primary intersections operate at C/C, E/D, F/E and C/B during am/pm peak hours. The poor LOS is attributed to heavy left turn demand during the morning and afternoon peak hours. Table 1.4 predicts E/F, F/F, F/F, and F/F for the 2035 No-build traffic scenario. Table 2.4 shows a slightly different LOS in the 2035 Traffic with Bypass for one intersection (Titled: "Existing US 70 Intersection LOS, 2035 Traffic with Bypass"). This information is confusing and seems to indicate that traffic on existing US 70 with the Havelock Bypass completed is approximately the same in the 2035 design year than without the proposed project. It seems to contradict Table 2.5 which is titled "Proposed Havelock Bypass Freeway LOS, 2035 Build Traffic". This information should be clarified at the next Merger concurrence meeting and in the Final Environmental Impact Statement (FEIS).

Detailed Study Alternatives

The FHWA and NCDOT studied three (3) alternatives for the proposed bypass: Alternatives 1, 2 and 3. Alternative 1 is the longest and mostly southerly alternative. Alternative 2 is the shortest and most direct parallel route to existing US 70. Alternative 3 (i.e., Preferred alternative) is a combination of Alternatives 1 and 2. There are three interchanges proposed one at each terminus and at the intersection of Lake Road. Alternative 1 has the least number of residential relocations, the least impact to Croatan National Forest, the least impact to Prime Farmlands, the second lowest wetland impacts, the second lowest stream impacts, and similar impacts in other categories with Alternative 3.

Human Environment Impacts

Relocations

The Preferred Alternative (Alternative 3) is expected to impact 16 residences, 1 business and 1 non-profit organization. Alternative 1 is expected to impact 13 residences, 1 business, and 1 non-profit organization. Alternative 2 is expected to impact 133 residences or more than a magnitude more than either Alternatives 1 or 3.

Minority and Low-Income Populations: Environmental Justice

Census data from 2000 was utilized for the evaluation and analysis of environmental justice (EJ) demographic characterization and potential impacts in Sections 3.15 and 4.1.2 of the DEIS. The FEIS should include more current Census data. EPA acknowledges that relocation reports were based upon 2009 information. However, Alternative 3 (NCDOT's Preferred Alternative) should be compared to more recent demographic information that is identified in Section 3.1.5 from pre-2000. None of the residential relocations are identified in the DEIS as being to minority or low-income properties (Table S.1).

Community Resources

The DEIS identifies that the Craven County Waste Transfer Station being relocated as the result of the bypass. A general description of this facility is provided on Page 3-43 of the DEIS. The Craven County Waste Transfer Station accepts used appliances, furniture and household waste from County residents and businesses. There are apparently no permanent disposal facilities located in the County. There are apparently no other waste transfer stations located in the County. All three proposed bypass alternatives impact the Craven County Waste Transfer Station. On Page 4-29, the FHWA and NCDOT indicate that the County must relocate this facility if they are to continue to provide a waste transfer station in the Havelock area. EPA has numerous environmental concerns regarding this issue. The DEIS does not adequately address the potential impact to the City of Havelock or the County and the potential for increases in illegal dumping and disposal of trash and other hazardous materials if the County encounters a problem with the relocation of this facility.

Socio-economic Issues

The DEIS presents unemployment data that is not current. Table 3.10 includes unemployment rates from 1990 and 2006. The narrative on Page 3-10 of the DEIS includes information from 2008. More recent unemployment figures (e.g., March of 2011) show unemployment for Craven County at 9.7% or more than double the 2006 levels identified in the DEIS. Similarly, other information contained in Section 3.1.2.2 on Income and Poverty is not current or potentially relevant. Median Household Income and Poverty levels in Tables 3.11 and 3.12 are from 1989 to 1999. Table 3.13 showing

the summary of Socio-economic Data compares the City of Havelock, Craven County and North Carolina from 1990 to 2000. This information should be updated to more current socio-economic data in the FEIS.

Page 4-11 of the DEIS describes economic effects of the proposed bypass. The information is not quantified. The negative impacts to local businesses from the diversion of traffic along existing US 70 are considered by FHWA and NCDOT to be minimal. The benefits of reduced travel times and vehicle operating costs by bypassing existing traffic signals and congestion are not quantified. There are numerous examples in North Carolina where bypasses have severely damaged downtown business areas once there are alternative routes provided for through traffic. There is no origin/destination study cited that would identify how much traffic is seasonal 'beach traffic' versus local or regional traffic. EPA believes the negative business impacts from a bypass to a relatively rural county with a large percentage of the land that is in Federal or State ownership (e.g., Cherry Point Marine Corps Air Station, Croatan National Forest, etc.) can be potentially severe. Regional traffic from western North Carolina and New Bern heading to Morehead City, Beaufort, Atlanta Beach, and Bogue Banks destinations will be diverted around Havelock. There are no other major U.S. routes connecting New Bern to other coastal and beach communities in this area of the state. The information concerning the potential decreases and increases in property values along the proposed bypass route is also subjective and not quantified. Any short-term gains to the local economy from the construction of the bypass will be off-set from long-term negative impacts to local businesses after traffic is diverted from the downtown commercial and retail area of Havelock.

Farmland Impacts

Section 4.1.6.3 of the DEIS addresses Farmlands. The Farmland Conversion Impact Rating Form was completed and Alternative 3 scored 116.8 points (less than 160). Based upon the information contained in this section there will be 71 acres of prime farmland converted. The DEIS discussion on pages 4-26 and 4-27 does not identify the additional acreage determined to be of State-wide and Local Important Farmland shown on the AD-1006 form contained in Appendix A1. The copy of the form is difficult to read. It appears that another 29 acres are considered to be State-wide and Local Important Farmland for Alternative 3. Excluding the 83 acres within Croatan National Forest from line B, Part III, the total acres of farmland potentially impacted appears to be 355 acres with 71 acres considered to be Prime and Unique Farmland and 29 acres as State-wide and Local Important Farmland. The FEIS should clarify this information and identify any issues involved with dissecting active fields within the corridor alignment, access for farm equipment and any special N.C. or local designations (e.g., Voluntary Agricultural Districts – VADs). According to the 2008 Annual Report of the North Carolina Agricultural Development and Farmland Preservation Trust Fund, Craven County received a grant to establish a VAD Ordinance.

Natural Resources Impacts

Jurisdictional Streams and Wetlands

The Preferred Alternative (Alternative 3) is expected to impact 115 acres of jurisdictional wetlands and 2,505 linear feet of streams. Alternative 1 is estimated to impact 109 acres of jurisdictional wetlands and 2,581 linear feet of streams. Alternative 2 potentially impacts 78 acres of wetlands and 3,094 linear feet of streams. The DEIS also contains information on the potential impacts to Neuse River Riparian Buffers (NRRB). The units presented in Table S.1 are in square feet. Because this is an areal impact calculation, EPA recommends that the units be consistent with other impacts in the tables (e.g., Using acreages as well). For Alternatives 1, 2, and 3, NRRB are 1.6, 3.3, and 2.4 acres, respectively.

The primary jurisdictional streams in the project study area include East Prong Slocum Creek, Southwest Prong Slocum Creek, Black Swamp, and Tucker Creek. Current water quality classifications include Class SC for Tucker Creek and tributaries and Class C for Slocum Creek and its tributaries. All of the impacted streams include supplemental classifications of Nutrient Sensitive Waters (NSW) and Swamp Waters (SW). Similar to issue of appropriate units of measure identified above for NRRB, Tables 4.7a and 4.7b list stream impacts in acres as well as linear feet. Identifying impacts of jurisdictional streams in acres is not consistent with other NEPA/Section 404 Merger project documents. There is no discussion in the DEIS on how to translate a linear impact to an areal impact for streams.

For Alternative 3, NCDOT is proposing dual bridges at Southwest Prong Slocum Creek (925 feet in length) and East Prong Slocum Creek (1,470 feet in length). However, these previously reviewed stream and wetland crossing sites were made prior to June of 2002. These two bridge crossings are not listed as environmental commitments in the DEIS (i.e., “Green Sheets”). After the proposed LEDPA ‘re-affirmation’ meeting, EPA anticipates that NCDOT will seek to change these previously agreed to bridge lengths. According to Page 4-46 of the DEIS the “*Merger Process Team has approved Concurrence Point 4B (Hydraulic Review)*”. From Appendix B, regarding the hydraulic review meeting on June 20, 2002, EPA was not listed as a team member or a participant. The Merger Team members from the USACE, NCDWQ, NCWRC, and USFWS 2002 project team have all changed. As with other Merger ‘pipeline’ projects, EPA recommends that a field visit of the major hydraulic crossings be scheduled prior to the LEDPA meeting to determine appropriate bridge lengths based upon current practice for each of the detailed study alternatives. EPA has not been afforded an opportunity to review the proposed hydraulic plans. EPA also expects that unresolved issues from the meeting minutes have not been resolved (e.g., NCDWQ representative’s concern for stormwater treatment from additional paved surfaces from the new roadway).

The DEIS does not address required avoidance and minimization measures under the current NEPA/Section 404 Merger process (i.e., Concurrence Point 4A). Such typical

measures include bridging, steepening side slopes, reduced and tapered median widths, and utilizing single bridges at major hydraulic crossings. EPA requests that FHWA and NCDOT consider these typical avoidance and minimization measures at the meeting following the 're-affirmation' meeting on the LEDPA.

The DEIS discusses the Croatan Wetland Mitigation Bank (CWMB) for unavoidable jurisdictional impacts on Pages 4-99 to 4-101. The discussion includes available credits for both riverine and non-riverine wetland systems. The information in Section 4.4.1 does not identify mitigation for jurisdictional stream impacts and if there are available credits for these potential impacts. This section of the DEIS also discusses credits for RCW habitat losses under Section 7 of the Endangered Species Act. The FEIS needs to identify the compensatory mitigation plans for unavoidable impacts to jurisdictional streams.

Croatan National Forest and Terrestrial Forests

Alternative 3 is expected to impact 240 acres within the Croatan National Forest. In addition, the proposed bypass impacts the Southwest Prong Flatwoods Priority Area and the Havelock Station Flatwoods and Powerline Corridor Natural Area. According to Table 4.5b, terrestrial forest community impacts from the Alternative 3 alignment are estimated to be 277.9 acres. Considering the rural project setting, EPA recommends that the FHWA and NCDOT consider the most proactive efforts to minimize clearing in order to reduce impacts to terrestrial forest communities and wildlife habitat. FHWA and NCDOT should also consider wildlife passage issues between dissected terrestrial forest communities and other wildlife habitat areas. The proposed freeway will greatly increase travel speeds and increase the likelihood for more collisions with large mammals. The accident analysis provided on Pages 1-20 to 1-23 indicates that there were no fatalities reported between the study period of 2005-2008 involving 530 accidents along US 70. Collisions with large mammals along existing US 70 within the project study area were not identified in the DEIS.

Threatened and Endangered Species

Sections 3.5.4.3 and 4.1.9.3 of the DEIS address Protected Species issues associated with the Endangered Species Act. Federally-protected species are identified in Table 4.8 including the Biological Conclusion for each of the 14 species listed. There are still unresolved issues associated with the Red-cockaded Woodpecker (*Picoides borealis*). According to the DEIS, all three alternatives would impact portions of Croatan National Forest, as well as habitat within the foraging partitions of up to six Red-cockaded Woodpecker (RCW) clusters (Currently 3 active, 1 inactive and 2 recruitment). The DEIS information (e.g., Page S-20) appears to be different from the information provided by the U.S. Fish and Wildlife Service (USFWS). According to Table S.1, there will also be impacts to 3 RCW habitat management areas. The USFWS provided formal comments on the DEIS in a letter dated October 26, 2011, identifying their concerns for the environmental commitments included in the DEIS. EPA defers to the USFWS and

State wildlife agencies on these issues but recommends that these unresolved issues be addressed by FHWA and NCDOT prior to the issuance of the FEIS.

The DEIS also identifies the U.S. Forest Service's Proposed, Endangered, Threatened and Sensitive (PETS) species associated with Croatan National Forest. Pages 3-112 to 3-120 identify the PETS species, the status, the habitat type and if the habitat is present in the project study area. There appears to be 103 protected, endangered, threatened and sensitive plant and animal species on the PETS list that have habitat present within the project study area. Fragmentation of wildlife habitat is a significant environmental concern and the transportation agencies should look to additional input and recommendations from the U.S. Forest Service, USFWS and the North Carolina Wildlife Resources Commission.